



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 11, 1998

Mr. C. J. Brandt, Jr.
General Counsel
Department of Information Resources
P.O. Box 13564
Austin, Texas 78711-3564

OR98-3068

Dear Mr. Brandt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 120379.

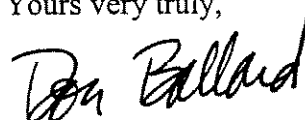
The Department of Information Resources (the department) received a request for all proposals submitted concerning the implementation of the Texas Department of Transportation's PeopleSoft HRMS System, job reference number 13193. You indicate that you have released some of the requested information. You explain, however, that the proposals submitted by Allied Consultants, Inc. and RCG Information Technology/Dynamic Professional Services may be proprietary in nature and protected from disclosure by sections 552.104 and 552.110 of the Government Code. Gov't Code § 552.007; Gov't Code § 552.305. You raise no exception to disclosure on behalf of the department, and make no specific arguments regarding the proprietary nature of the requested information. You have submitted for our review the proposals at issue.

Since the property and privacy rights of third parties may be implicated by the release of the requested information, this office notified Allied Consultants, Inc. and RCG Information Technology/Dynamic Professional Services about the request for information. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Open Records Act in certain circumstances). The companies did not respond to our notification. Consequently, neither the department nor the companies have established that the requested proposals are excepted from required public disclosure. *See* Open Records Decision Nos. 639 at 4 (1996) (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized

allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure), 552 at 5 (1990)(party must establish prima facie case that information is trade secret), 542 at 3 (1990). The proposals submitted by Allied Consultants, Inc. and RCG Information Technology/Dynamic Professional Services must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard
Assistant Attorney General
Open Records Division

JDB\nc

Ref: ID# 120379

Enclosures: Submitted documents

cc: Ms. Leah C. Clark
Anderson Consulting
701 Brazos Street, Suite 1000
Austin Texas 78701
(w/o enclosures)